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18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA

20 SAN FRANCISCO DIVISION

21 UNITED STATES OF AMERICA,

22 Plaintiff,

23 v.

24 CARLOS E. KEPKE,

25 Defendant.

26 Criminal No. 3:21-CR-00155-JD

27 STIPULATION AND [PROPOSED]
28 ORDER REGARDING REDACTION AND
SEALING OF TRIAL EXHIBITS

29 The United States of America and Defendant Carlos E. Kepke, by and through undersigned
30 counsel, hereby stipulate, pursuant to Fed. R. Crim. P. 49.1, that good cause exists for the Court to adopt
31 the procedures set forth below, and state as follows in support:

32 Rule 49.1(a) provides that

33 Unless the court orders otherwise, in an electronic or paper filing with the court that contains
34 an individual's social-security number, taxpayer-identification number, or birth date, the
35 name of an individual known to be a minor, a financial-account number, or the home address
36 of an individual, a party or nonparty making the filing may include only:

37 (1) the last four digits of the social-security number and taxpayer-identification number;

- (2) the year of the individual's birth;
- (3) the minor's initials;
- (4) the last four digits of the financial-account number; and
- (5) the city and state of the home address.

Fed. R. Crim. P. 49.1(a). Commentary to Rule 49.1 directs that trial exhibits be redacted in accordance with the Rule "to the extent they are filed with the court," and also that "[t]rial exhibits that are not initially filed with the court must be redacted in accordance with the rule if and when they are filed as part of an appeal or for other reasons."

Rule 49.1(d) further provides: "The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the person who made the filing to file a redacted version for the public record."

This matter is set for trial to begin on November 28, 2022. The parties expect to introduce numerous exhibits at trial, and also expect those exhibits to be rife with information covered by Rule 49.1(a). The parties further expect that information in trial exhibits which would be covered by Rule 49.1(a) may have independent evidentiary value.

Accordingly, the parties hereby stipulate and request that the following procedure be ordered with respect to the trial exhibits for this matter:

1. The trial exhibits used at trial in this matter, and provided to the jury, will not include the redactions contemplated by Rule 49.1(a).

2. The original, unredacted trial exhibits admitted at trial will be held under seal absent further order of the Court.

3. Within 28 days of the end of trial, each party will prepare a set of all the admitted trial exhibits the party offered at trial, redacted in accordance with Rule 49.1(a), and provide that set to all other parties for review.

4. Within 42 days of the end of trial, the parties will submit an agreed, redacted set of admitted trial exhibits to the Court. The redacted set of admitted trial exhibits will be kept by the Court in the publicly available file for the case.

The parties anticipate that this proposed procedure will ensure that the jury is not deprived of pertinent information, while creating only a minimal disruption to the public's access to the Court's records.

IT IS SO STIPULATED.

STEPHANIE M. HINDS
United States Attorney

s/ Michael G. Pitman
MICHAEL G. PITMAN
Assistant United States Attorney
COREY J. SMITH
Senior Litigation Counsel

Attorneys for United States of America

s/ Grant P. Fondo
GRANT P. FONDO

Attorney for Defendant Carlos E. Kepke

[PROPOSED] ORDER

Pursuant to the Stipulation of the United States of America and Defendant Carlos E. Kepke, the representations of counsel, and for good cause shown, IT IS HEREBY ORDERED, pursuant to Fed. R. Crim. P. 49.1, that:

1. The trial exhibits used at trial in this matter, and provided to the jury, will not include the redactions contemplated by Rule 49.1(a).

2. The original, unredacted trial exhibits admitted at trial will be held under seal absent further order of the Court.

3. Within 28 days of the end of trial, each party will prepare a set of all the admitted trial exhibits the party offered at trial, redacted in accordance with Rule 49.1(a), and provide that set to all other parties for review.

4. Within 42 days of the end of trial, the parties will submit an agreed, redacted set of

1 admitted trial exhibits to the Court. The redacted set of admitted trial exhibits will be kept by the Court
2 in the publicly available file for the case.

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4 SO ORDERED this _____ day of November, 2022.

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7 THE HONORABLE JAMES DONATO
8 UNITED STATES DISTRICT JUDGE

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